

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

GREGORY LINSTON GILLILAN,

Plaintiff

VS.

D. SCARBOROUGH,

Defendant.

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1 : 05-CV-172 (WLS)

RECOMMENDATION

Presently pending in this § 1983 action is the plaintiff's Motion for Default Judgment. This action was filed on December 6, 2005, and service was ordered on the defendant on December 28, 2005. The docketing entries indicate that a summons was issued as to the defendant on May 3, 2006, and the defendant filed a Motion to Dismiss on May 9, 2006. Process receipt and return forms indicate that personal service was perfected on May 21, 2006.

Plaintiff's Motion for Default Judgment was filed on February 17, 2005, prior to the actual service of the summons and complaint herein. Accordingly, plaintiff's motion was premature and without merit. Accordingly, it is the recommendation of the undersigned that the plaintiff's Motion for Default Judgment be **DENIED**. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable W. Louis Sands, Chief United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

SO RECOMMENDED, this 14th day of June, 2006.

/s/ **Richard L. Hodge**
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE

asb